

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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|---|---|---------------------------------|
| -----                                     |   | X                               |
| ---                                       | : |                                 |
| ALEX GOLDFARB,                            | : | Civil Action No. 1:18 -CV-08128 |
|   | : | (DAB)                           |
|   | : |                                 |
| Plaintiff,                                | : | <b>AFFIDAVIT OF PLAINTIFF</b>   |
|   | : | <b>ALEX GOLDFARB IN</b>         |
| -against-                                 | : | <b>OPPOSITION TO MOTION TO</b>  |
|   | : | <b>DISMISS</b>                  |
|   | : |                                 |
| CHANNEL ONE RUSSIA and RT AMERICA, a.k.a. | : |                                 |
| ANO TV-NOVOSTI,                           | : |                                 |
|   | : |                                 |
| Defendants.                               | : |                                 |
| -----                                     |   | X                               |
| ---                                       | : |                                 |

STATE OF NEW JERSEY :  
 : ss:  
COUNTY OF BERGEN :

ALEX GOLDFARB, being duly sworn, deposes and says:

1. I am the plaintiff in this action. I respectfully submit this affidavit in opposition to the motion of Defendant RT America a.k.a. ANO TV- Novosti ("RT America") to dismiss my complaint.
2. I have personal knowledge of facts set forth in this affidavit, except for those stated on information and belief.
3. According to defendant's memorandum, "RT America" is a brand name it owns to create and distribute television programs in North America.
4. On April 1, 2018, RT America broadcast an interview with Walter Litvinenko ("Walter") in which he falsely accused me of murdering his son Alexander Litvinenko and also of murdering my own wife.

5. The purpose of the RT America broadcast, according to the opening statement of interviewer Oksana Boyko, was to rebut the “national character assassination” allegedly perpetrated by United Kingdom authorities on Russia when they “cited the poisoning of [Alexander Litvinenko] in London as a circumstantial evidence in the Skripal case: The Russians did it before, they will do it again. That’s the essence of the UK allegations against Russia.”

6. The RT America program was broadcast eleven days after defendant Channel One-Russia broadcast the same defamatory statements by Walter concerning me, with the same explicitly stated editorial purpose: to counter official British statements regarding the Skripal attack.

7. Walter’s allegations on both programs were not new. He first publicly accused me of murdering Alexander Litvinenko in 2012 and insinuated that I also murdered my wife in his 2012 statement made public by the UK inquiry in 2015.

8. In 2016, a Public Inquiry in UK found on evidence presented in open court that, on the criminal standard of proof, Alexander Litvinenko was in fact killed by two Russian agents, Andrey Lugovoy and Dmitry Kovtun - and by no one else.

9. As pleaded in Complaint, RT America defamed me by (a) rebroadcasting these old allegations *after and notwithstanding* the fact that they were explicitly debunked in a court of law and by (b) fabricating a context that effectively discredited the UK Public Inquiry’s findings.

**Facts Concerning Personal Jurisdiction over RT America**

10. In paragraph 16 of the Complaint, it is alleged upon information and belief RT America maintains a television studio in New York and has a permanent correspondent in New York. Upon information and belief, the current RT America correspondent in New York is Ms. Trinity Chavez. In addition to regular news reporting by Ms. Chavez, a weekly interview program “On Contact”, hosted by Chris Hedges is produced out of RT New York Studio. A screenshot of a report from RT New York Studio dated March 12, 2019 is attached hereto as Exhibit A.

11. For at least a decade, RT America was present in the New York market through distribution contracts with New York cable and satellite television operators and hotels targeting New York residents and visitors. These contracts involved payments of millions of dollars, and specifically targeted millions of New York viewers. My defamation claim arises from these purposeful activities by RT America in New York.

12. According to the article in *The Wall Street Journal* dated January 25, 2017, RT America has transacted business in United States by paying American cable and satellite TV providers and hotel chains for carrying RT programs (rather than selling content or advertising). A copy of that article is attached hereto as Exhibit B.

13. The *WSJ* article cited “[t]he recent U.S. intelligence assessment [which] alluded to this more unusual business practice. It said the Kremlin spends \$190 million annually on distributing RT programming through international hotels and carriage on cable, satellite and broadcast networks.” As set forth in detail below, a significant portion of these activities took place in New York.

14. According to the Russian official sources, RT America's 2015 income was comprised of \$293 million in direct government funding and only \$325,000 in sales of goods and services (<https://meduza.io/en/news/2015/12/18/for-the-first-time-russia-s-justice-ministry-reveals-data-about-rt-s-spending>).

15. Attached hereto as Exhibit C is a determination dated August 17, 2017 by the United States Department of Justice, National Security Division that RTTV America, Inc. ("RTTV"), a Maryland company, was required to register under the Foreign Agents Registration Act of 1938, as amended ("FARA"). The purpose of FARA is to inform the American public of the activities of agents working for foreign principals to influence the American public. According to the DOJ determination, RTTV "operates in the United States on behalf of RT, for whom it is an alter ego".

16. Until November 2017, RTTV paid for distribution of RT America's programs in the United States. RTTV is licensed to do business in New York. A copy of the New York Secretary of State's website pages concerning RTTV are attached hereto as Exhibit D.

17. RTTV had service contracts with the New York City-based Time Warner Cable ("TWC"), which operated under license from New York's Public Service Commission. Attached hereto as Exhibit E and Exhibit F are copies of two documents retrieved from RTTV's filings with the U.S. Department of Justice as a foreign agent under FARA. These documents evidence payments to TWC for carrying RT America's programs in the New York market.

18. To bring RT America's programs to the New York market RTTV made use of two of TWC's geographical cable "clusters": the "North Eastern Cluster" serving Upstate New York and the "New York Cluster" serving New York City and Northern New Jersey ([https://en.wikipedia.org/wiki/Time\\_Warner\\_Cable#Cable\\_clusters](https://en.wikipedia.org/wiki/Time_Warner_Cable#Cable_clusters)). The total amounts earmarked for New York under these contracts were over \$2 million per year for nearly ten years. According to the Spectrum (formerly TWC) web site (<https://www.cabletv.com/time-warner/ny>), 66% or 4,741,625 New York households subscribed to its cable bundle, which included RT along with 125+ other channels.

19. Exhibit E, titled Appendix #1 to Contract # 1003/02-11, dated February 28, 2011 (amended on December 12, 2011), details payments for distribution of RT America's programs in the North East Cluster including: Albany, Binghamton, Buffalo, Rochester, and Syracuse. The amount was \$1,520,000 per year for three years from January 1, 2011 to January 14, 2014 for 24/7 broadcasting.

20. Exhibit F, titled Appendix #1 to Contract # 101/08-10 dated August 17, 2010 (amended June 15, 2015), details payments for distribution of RT America programs in New York City and New Jersey for four years from January 15, 2010 to January 14, 2014. The amount was \$1,320,000 per year for 24/7 broadcasting. From September 15, 2014 to August 31, 2017, an additional cluster of Southern California was added so that four broadcasting areas, New York, New Jersey, Los Angeles and San Diego, were targeted. The amount paid was increased to approximately \$4 million per year.

21. In May of 2016, TWC merged with Charter Communications and was rebranded as Spectrum Cable. Upon information and belief, Spectrum continued broadcasting RT

America programming in New York using the same two New York clusters until October 2018 (<https://www.rt.com/about-us/press-releases/comsat-chicago-spectrum-rt-america/>).

22. In November 2017, T&R Productions, LLC, a company in Washington DC (“T&R”), replaced RTTV as the conduit for RT America’s operations in the United States. T&R is licensed to do business in New York. A copy of the New York Secretary of State’s website pages concerning T&R is attached hereto as Exhibit G.

23. On July 7, 2018, T&R filed a FARA “Supplemental Statement” which stated, at page 4: “Registrant is related through ... common ownership to T&R Distributions LLC (a DC-registered business), which contracts with ANO TV-Novosti to secure a small number of distribution agreements with U.S.-based companies.” A copy of T&R’s “Supplemental Statement” is attached hereto as Exhibit H. Upon information and belief, T&R kept the distribution contract with Spectrum for the New York market until October 2018.

24. The FARA filings show that the total funds received by T&R from ANO TV-Novosti in the six months from December 12, 2017 through May 31, 2018 was \$17,960,897. The defamatory broadcast by RT America took place during this period.

25. In addition to cable TV, RT America paid for the distribution of its programs in the New York area among subscribers of the satellite TV providers Dish Network and DirecTV.

26. In the course of the past decade, RT also targeted and paid hundreds of hotels operating in New York to include RT programs in their TV room packages. RT displays

the list of these hotels on its web site (<https://www.rt.com/where-to-watch/USA/>). Some of these hotels are part of nationwide chains. Others operate exclusively in New York:

- Duane Street Hotel;
- Gansevoort Hotel Group (Gansevoort Meatpacking NYC);
- Affinia Hotels (Shelburne NYC, Gardens NYC);
- RFR Holding LLC (Gramercy Park Hotel);
- Greenwich Hotel;
- Triumph Hotel Group (Hotel Belleclaire, Washington Jefferson Hotel);
- The Monian Group (Hotel Mela);
- Kimberly Hotel & Suites;
- Paramount Hotel;
- Denihan Hospitality Group (The Benjamin);
- The Bryant Park Hotel.

**Defendant's Actual Malice**

27. I believe that I have alleged that Ms. Oksana Boyko, whom I specifically mentioned in the complaint, acted with actual malice.

28. It can be reasonably assumed that other RT staffers and officers whose identities are unknown to me - producers, editors or executives - participated in the creation of the defamatory program. I explicitly refer to these unknown individuals in Paragraph 120 of my Complaint. I respectfully request that I be permitted to have discovery concerning their identities and facts relevant to their potential actual malice.

29. Ms. Boyko intentionally omitted crucial facts concerning the UK Inquiry and injected false factual information (the alleged classification of significant investigation materials), which bolstered the plausibility of Walter's defamatory statements.

30. With respect to Ms. Boyko's state of mind regarding the UK inquiry, I believe that "the reporting history of TV Novosti" is relevant. It is implausible that any political journalist in Russia, not least one interviewing Walter, would be unaware of the findings of the UK Inquiry. This was one of the most reported stories in Russia (it has been mentioned in the Russian Google 119,000 times). Ms. Boyko's failure to mention the UK inquiry could only be a deliberate omission of fact.

31. There is a substantial basis to infer that Ms. Boyko, and/or others at RT America involved in the April 1, 2018 broadcast, saw an explicit rebuttal of their fake narrative ten days prior to the broadcast, including a reference to the UK Inquiry and the debunking of the "classified case materials" falsity. On March 21, Marina Litvinenko, Alexander's widow, gave an interview to the Russian news agency RIA-Novosti. She was reacting to the Channel One talk-show the day before during which Walter uttered the same false statements, and the show host pushed the same fake narratives as were later broadcast on April 1 by RT America. A copy of an article concerning Mrs. Litvinenko's March 21, 2018 interview, together with my translation, is attached hereto as Exhibit I.

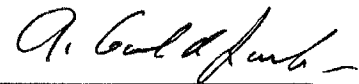
32. In that interview, Mrs. Litvinenko specifically noted the UK judge's findings that Lugovoy and Kovtun killed her husband based on evidence presented in an open court, and hence the assertion that the relevant evidence was classified is false.



33. In the same interview, Mrs. Litvinenko revealed that my wife had died from cancer. This was the first and only time the cause of my wife's death had been publicly disclosed prior to Ms. Boyko's asking her question on the April 1 program: "She had cancer, I hear?". Ms. Boyko could not, I believe, have learned about my wife's cancer from any other source. This is strong evidence that Ms. Boyko and/or RT editors were aware of Mrs. Litvinenko's March 21 interview, and therefore were aware of the UK Inquiry findings and the falsity of the "classified evidence" claim.

**RT America Acted in a Grossly Irresponsible Manner**

34. With respect to RT America's violation of professional "standards of information gathering and dissemination ordinarily followed by responsible parties," I believe that it is relevant that two former RT's journalists, Liz Wahl (<https://youtu.be/rE3hGrf4s8I>) and Sara Firth (<https://youtu.be/AVfcSl9vuPY>), publicly resigned in protest of RT's "pushing a narrative" instead of honest reporting and analysis. A copy of an article from Politico dated March 21, 2014 concerning Ms. Wahl's decision to stop working for "the Russian propaganda machine" is attached hereto as Exhibit J.



Alex Goldfarb

Sworn to before me this 18<sup>th</sup>  
day of March, 2019



Notary Public

